

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:93-CR-184

v.

HON. ROBERT HOLMES BELL

HERBERT LEO LOVE,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Herbert Leo Love has filed a motion for modification or reduction of sentence (ECF No. 1135) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The probation department filed a Sentence Modification Report (ECF No. 1145), not recommending a sentence reduction because Defendant's prior amended sentence is less than the 2014 amended guideline range.

Counsel for the defendant filed a response to the sentence modification report (ECF No. 1146) on November 30, 2015, requesting the court grant the motion and impose a sentence comparable to the originally imposed sentence.

Counsel for the government filed a response to the sentence modification report (ECF No. 1147) on December 23, 2015, stating Defendant does not fall within the parameters of the amendment because his sentence is below the recomputed guideline range before any variance is considered. The Court agrees.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 1135) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: January 4, 2016

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE